

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

C.A. NO. 04-CV-10521-GAO

BETTY ANNE WATERS, as Administratrix of the  
Estate of KENNETH WATERS,

Plaintiff

v.

TOWN OF AYER, NANCY TAYLOR-HARRIS,  
in Her Individual Capacity, ARTHUR BOISSEAU,  
In His Individual Capacity and PHILIP L.  
CONNORS, in His Individual Capacity,

Defendants

DEFENDANTS' REPLY TO  
PLAINTIFF'S RESPONSE TO  
DEFENDANTS' LOCAL RULE 56.1  
STATEMENT OF MATERIAL  
FACTS NOT IN DISPUTE

Now come the defendants in the above-captioned case and hereby reply to the Plaintiff's Response to Defendants' Local Rule 56.1 Statement of Material Facts Not in Dispute. As grounds therefor, defendants state that plaintiff's responses fail to comply with L.R. 56.1 since they fail to contain a "concise statement" of material facts for trial and instead improperly exceed the scope of the facts proffered in Defendants' Statement and introduce argument, unsupported inferences, mischaracterizations of the evidence and extraneous and immaterial facts into the record. For the same reasons, plaintiff's responses individually and collectively fail to raise any material question of fact for trial.

For the Court's convenience, defendants respond herein by providing specific objections to plaintiff's "responses" by paragraph number.<sup>1</sup>

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<sup>1</sup> Defendants further incorporate their responses to plaintiff's Statement of Disputed Facts, as cited by the plaintiff.

I. Defendants Object to the Following Paragraphs On Grounds that Plaintiff's "Response" Comprises Argument, Not Disputes as to Material Fact

Paragraphs: 2, 4, 5, 13, 18, 19, 22, 23, 24, 26, 27, 31, 36, 45, 46, 47, 48, 49, 50, 51, 53, 54, 55, 56, 58, 59, 60, 61, 63, 64, 65, 66, 67, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 103, 104, 105, 106, 107, 108, 109, 110, 111, 113, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 126, 127, 128, 129, 130, 132, 133, 134, 135, 137, 140, 142, 143, 144, 145, 146, 149, 150, 151, 152, 154, 158, 159, 160, 163, 166, 167, 168, 172

II. Defendants Object to the Following Paragraphs On Grounds that Plaintiff's "Response" Relies on Unsupported Inferences, Not Disputes as to Material Fact

Paragraphs: 2, 5, 7, 8, 9, 10, 19, 24, 26, 27, 53, 54, 56, 64, 67, 70, 72, 73, 88, 95, 97, 98, 99, 100, 113, 123, 124, 126, 127, 129, 130, 131, 132, 133, 134, 136, 137, 144, 145, 146, 148

III. Defendants Object to the Following Paragraphs On Grounds that Plaintiff's "Response" Mischaracterizes the Evidence

Paragraphs: 2, 9, 10, 13, 15, 17, 19, 20, 24, 26, 27, 45, 47, 50, 53, 61, 72, 78, 95, 96, 97, 98, 99, 100, 113, 127, 131, 133, 134, 136, 137, 145, 146, 172, 174

IV. Defendants Object to the Following Paragraphs On Grounds that Plaintiff's "Response" Exceeds the Scope of the Facts Proffered by the Defendants and Introduces Immaterial and Extraneous Facts

Paragraphs: 8, 9, 10, 13, 15, 17, 18, 19, 20, 26, 30, 31, 45, 47, 49, 56, 58, 60, 61, 67, 70, 71, 72, 73, 74, 75, 76, 78, 86, 87, 89, 94, 101, 103, 105, 119, 122, 127, 137, 141, 144, 148, 154, 156, 158, 162, 165, 166, 167, 168, 172

V. Defendants Object to the Following Paragraphs on Grounds That Plaintiff's "Response" Requires the Court to Impermissibly Weigh the Evidence at Summary Judgment

Paragraphs: 7, 10, 22, 23, 45, 48, 49, 53, 55, 56, 63, 66, 71, 72, 85, 86, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 103, 105, 106, 110, 113, 115, 116, 117, 121, 130, 159

WHEREFORE, for the reasons set forth herein, defendants respectfully request that the court grant summary judgment in favor of the defendants as the plaintiff has failed to create a viable dispute as to any material fact for trial.

DEFENDANTS,

By their attorneys,

/s/ Joseph L. Tehan, Jr.

Joseph L. Tehan, Jr. (BBO # 494020)

Gregg J. Corbo (BBO # 641459)

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